

the novel and unobvious subject matter of this invention. Claims 13 and 16 have been cancelled without prejudice. Claims 18, 21, 23, 27, and 28 remain unchanged. Claims 1-12 have been found to be allowable over the prior art of record.

The oath or declaration was determined to be defective. A new oath or declaration will be filed in a timely manner.

The disclosure has been amended to correct inadvertent typographical errors.

Claim 15 has been rejected under 35 U.S.C. § 112, second paragraph, for the reason stated. Accordingly, claim 15 has been amended to clarify the language of line 5, thereby overcoming this rejection.

Claims 13-16, 19 and 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the reference of Frigg (U.S. Patent no. 5,344,422) in view of Yuan et al (U.S. Patent No. 5,437,669). However, claim 17 has been indicated to be allowable if rewritten as indicated. Accordingly, claim 17 has been amended by being rewritten in independent form and to incorporate claims 13 and 16 therein. The dependency of claims 14, 15, 19, 20, and 22 has also been changed from claim 13 to claim 17 to reflect this amendment to claim 17.

Claims 23, 24, and 26-29 have been rejected under the judicially created doctrine of double patenting. A terminal disclaimer in compliance with 37 CFR 1.32(b) will be filed in a timely manner to overcome this rejection.

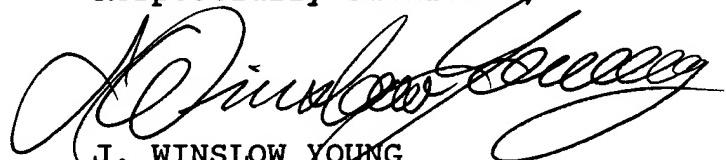
Claims 17, 18, 20, and 21 were indicated to be allowable if rewritten as indicated. Claim 17 has been amended as stated above.

Claims 25 and 30 were objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form as indicated. Accordingly, claim 25 has been rewritten to incorporate therein all of the subject matter of claim 23.

The references of Heinig et al. (U.S. Patent No. 4,887,595); Asher, et al. (U.S. Patent No. 5,129,900); Baker et al. (U.S. Patent No. 5,282,862); and Lahille et al. (U.S. Patent No. 5,380,325) are acknowledged for their relevance to the art.

In view of the foregoing, it is respectfully urged that claims 14, 15, and 17-30 are now in condition for allowance and allowance of the same along with claims 1-12 is hereby respectfully requested. In the event there are any remaining impediments to the allowance of these claims that could be clarified by a telephone conference, the Examiner is respectfully invited to initiate the same with the undersigned.

Respectfully submitted,



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Docket: 261b

CERTIFICATE OF MAILING

I hereby certify that this Amendment for patent application Serial No. 08/707,991 for SPINAL FIXATION APPARATUS AND METHOD in the name of Donald W. Bryan is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Dated this 28th day of July 1997.

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